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EXAMINER

BURNHAM, SARAH C

ART UNIT PAPER NUMBER

3636

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,104

Applicant(s)

CHUNG, DONNA

Examiner

Sarah C. Burnham

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 7-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 11-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/9/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention: Group 1, Figures 1-8 and 12-13; Group 2, Figures 9-10 and Group 3, Figure 11.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, at least claim 1 appears to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over

the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Mr. Charles Nesser on September 21, 2004 a provisional election was made with traverse to prosecute the invention of Group 1, claims 1-6 and 11-16. Affirmation of this election must be made by applicant in replying to this Office action. Claims 7-10 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Priority

4. Acknowledgement is made of applicant's claim for priority based on provisional application 60/441,393 filed in the United States on January 21, 2003.

Drawings

5. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are informal and only acceptable for examination

purposes. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-6 and 11-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following words/phrases lack sufficient antecedent basis:

- The rear edge (claim 1, line 3)
- The underside (claim 1, line 3; claim 4, line 1; claim 13, line 3))
- The upper ends (claim 1, line 7)
- The front (claim 1, lines 7-8)
- The outward hinge motion (claim 1, line 2)
- The rear (claim 6, line 2)
- The hinge line (claim 11, line 2)
- The end (claim 11, line 2; claim 12, line 1)
- The opposing outer ends (claim 13, line 2)

- The outer end (claim 14, line 3)

Claims 2-3, 5 and 15-16 are rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-6 and 11 are rejected as best understood with the above cited indefiniteness under 35 U.S.C. 102(b) as being anticipated by Peterson (6,041,723). Peterson discloses an article of furniture (A), adapted for shipment in compact form comprising: a top (10); a back (B), hinged in proximity (at hinges 36) of the rear edge of the underside of the top (10), to fold downwardly (Figure 4) from a position more or less parallel with the top (Figure 1, solid lines); opposing left (20) and right (22) side panels, hinged to fold away from a position in which the panels (20)(22) lie more or less parallel with the back (B) (see folding movement in Figure 2); wherein, after the back (B) is folded downwardly and the side panels are hinged outwardly to assemble the article, the upper ends (unlabeled) of the side panels (20)(22) support the front of top (10); and means for preventing hinge motion (50) of the back (B) and the opposing side panels (20)(22), when the article is assembled for use.

With respect to claim 2, the side panels (20)(22) hinge inwardly from the back (B), so that when the article is folded together, the panels (20)(22) are positioned between the back (B) and top (10) (see Figures 1

With respect to claim 3, the back (B), top (10) and sides (20)(22) are mutually perpendicular, when the article is assembled for use as shown in Figure 4.

With respect to claim 4, a stop (14), attached to the underside of an end of the top, for limiting the outward hinge motion of a side panels when the article is assembled for use.

With respect to claim 5, the back (B) has opposing end legs (unlabeled) (see Figures) and where in each side panel (20)(22) also has opposing legs (unlabeled) extending downwardly therefrom to support the article (A) on a floor surface, and wherein each back leg is hinged to a leg of one of the side panels by way of hinges (34a) and (34b).

With respect to claim 6, the article (A) is supported on the floor surface by at least four legs at the rear arranged in pairs and two legs in the front (see Figure 4).

With respect to claim 11, said means for preventing hinge motion (50) comprises a stretcher running parallel to the hinge line defined by hinges (36) lying between the back (B) and the top (10), the end of the stretched (unlabeled) is connected to at least one side panel (20)(22) via pins (53).

10. Claims 1 and 13 are rejected as best understood with the above cited indefiniteness under 35 U.S.C. 102(b) as being anticipated by Margulis (3,009,752).

Margulis discloses an article of furniture (10), adapted for shipment in compact form comprising: a top (16); a back (12), hinged in proximity (at hinges 58) of the rear edge of the underside of the top (16), to fold downwardly (Figure 3) from a position more or less parallel with the top (Figure 5); opposing left (50) and right (50) side panels, hinged to fold away from a position in which the panels (50) lie more or less parallel with the back (12) (see Figure 5); wherein, after the back (12) is folded downwardly and the side panels (50) are hinged outwardly to assemble the article (10), the upper ends (unlabeled) of the side panels (50) support the front of top (10); and means for preventing hinge motion (64)(66) of the back (12) and the opposing side panels (50), when the article is assembled for use.

With respect to claim 13, when sides (50) are folded so they lie parallel with top (16) (see Figure 5), there is a gap between the opposing outer ends of the side panels (50), and further comprising a stiffener (62) attached to the underside of the table top in a vicinity of said gap.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 11 is rejected as best understood with the above cited indefiniteness under 35 U.S.C. 103(a) as being unpatentable over Peterson (6,041,723) in view of Powell

(6,350,092). As disclosed above, Peterson reveals all claimed elements with the exception of a means for connecting the end of the stretcher to at least one side panel which means comprises a pin and slot in combination with a wedge and pocket assembly.

Powell teaches the use of a wedge (26) in a pocket (23) and a pin (24) in a slot (38) for connecting a board (10) in a perpendicular relationship to edge (12) of a wall (14).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to attach the stretcher (50) disclosed by Peterson to the side panels (20)(22) by way of the assembly taught by Powell. Such an assembly creates a very secure connection as disclosed in column 6 line 62 through column 7, line 5).

Allowable Subject Matter

13. Claims 14-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to folding furniture structures in general:

- Nicholas (242,355)
- Chan (6,722,750)
- Barron (3,837,719)
- Brown et al. (6,158,831)
- McDonald (2,764,462)
- Brown et al. ((5,882,098)

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah C. Burnham whose telephone number is 703-305-7315. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SCB


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